BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of the
Reserve Account of:

PRIVATE PROTECTION PATROLS
(Employer)

PRECEDENT
RULING DECISION
No. P-R-122
Case No. R-71-211

Employer Account No.

DEPARTMENT OF HUMAN
RESOURCES DEVELOPMENT

Claimant: **William F. Reynolds**
S.S.A. No.:
BYB: 01311 SD: 03131

The Department appealed from Referee's Decision No. SF-R-5050 which held the employer's reserve account relieved of benefit charges under section 1032.5 of the Unemployment Insurance Code on the ground that the claimant performed work for this employer on a part-time basis. Written argument was submitted by the Department. None has been received from the employer.

STATEMENT OF FACTS

The claimant commenced working for the employer herein during the summer of 1970 as a guard. He worked on a part-time intermittent basis at a wage of $2.05 per hour. Some weeks the claimant worked less than 40 hours and during some weeks the claimant performed no services for the employer. For example, in the first two weeks of June 1971 the claimant worked 17 hours. He did not perform any services for the employer during the last two weeks in May and during the six-week period following January 29, 1971 the claimant performed no services for the employer. As of the date of the hearing in this matter the claimant was still employed by the employer on a part-time intermittent basis.

REASONS FOR DECISION

Section 1032.5 of the California Unemployment Insurance Code provides:

> "(a) Any base-period employer may, within 15 days after mailing of a notice of computation under Section 1329, submit to the department facts within its possession disclosing that the individual claiming benefits is rendering services for that employer in less than full-time work and is receiving wages less than his weekly benefit amount, and that the individual has continuously, commencing in or prior to the beginning of the base period, rendered services for that employer in such less than full-time work for wages less than the weekly benefit amount.
>
> "(b) The department shall consider facts submitted under subdivision (a) of this section together with any information in its possession and promptly notify the employer of its ruling. If the department finds that an individual is, under Section 1252, unemployed in any week on the basis of his having less than full-time work and receiving wages less than his weekly benefit amount, and that the employer submitting facts under this section is a base-period employer for whom the individual has continuously, commencing in or prior to the beginning of the base period, rendered services in such less than full-time work for wages less than the weekly benefit amount, that employer's account shall not be charged for benefits paid the individual in any week in which such wages are payable by that employer to the individual. Any ruling may for good cause be reconsidered by the department within 15 days after mailing or personal service of the notice of ruling. An appeal may be taken from a ruling or reconsidered ruling in the manner prescribed in Section 1328."

In viewing the provisions of section 1032.5, we find that the relief to be granted an employer is dependent upon an individual continuously rendering services for the employer in less than full-time work and for wages less than the weekly benefit amount. The qualification of continuous services, weekly wages and weekly benefit amounts are repeated in subsection (b).

Words of common usage should be given their usual, ordinary and natural meaning or signification according to the approved usage unless there is some indication to the contrary in the statute itself. The sense in which words in question are used in everyday life rather than their scientific meaning is the criterion to use in ascertaining their meaning, and it is to be presumed that the legislature has used the words in their known and ordinary signification. (Crawford, Statutory Construction (1940), section 186, pages 316 and 317)

The key qualifying word thus appears to be the word "continuously." This word has been uniformly construed on numerous occasions by both state and federal courts.

In Jacobson v. Mutual Benefit Health & Accident Ass'n., 296 N.W. 545, 70 N.D. 566, it is defined thus:

> ". . . the word 'continuously' means regularly, protracted, enduring, and without any substantial interruption of sequence, as contradistinguished from irregularly, spasmodically, intermittently, or occasionally, and does not necessarily mean constantly."

Lynch v. U.S., D.C.N.Y., 55 F. Supp, 538, at page 542, interpreted it:

> "'Continuously' imports reasonable regularity under normal conditions and must be applied with reference to the incidents of a given employment, and that which would be regular and continuous on

> the part of an office manager would not necessarily be continuous as applied to a bookmaker's clerk or assistant."

In Belletich v. Pollock (1946), 75 Cal. App. 2d 142, 171 P. 2d 57, it was stated:

> ". . . 'With continuity or continuation . . . implying an unbroken sentence.' . . ."

According to Black's Law Dictionary, "continuously" means uninterrupted; in unbroken sequence; without intermission or cessation; without intervening time. (citations omitted) Such definition is consistent with that contained in Webster's Unabridged Dictionary.

From a review of the record in this matter, it is obvious that the claimant did not render services for the employer on a continuous basis; rather, his services were rendered on an intermittent basis. Therefore, since the claimant was not continuously rendering services on a less than full-time basis, the employer's reserve account is not entitled to relief of charges under section 1032.5 of the code.

DECISION

The decision of the referee is reversed. The employer's reserve account is not relieved of charges under section 1032.5 of the code.

Sacramento, California, January 6, 1972.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

CLAUDE MINARD

JOHN B. WEISS

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CARL A. BRITSCHGI